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EXAMINER

LUGO, CARLOS

ART UNIT	PAPER NUMBER
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3676

DATE MAILED: 09/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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## Office Action Summary

Application No.

10/665,704

Applicant(s)

BELLA ET AL.

Examiner

Carlos Lugo

Art Unit

3676

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                         |                                                                               |
|-----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                       |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date. _____                                                  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)   |
| Paper No(s)/Mail Date _____                                                             | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |

Continuation of Attachment(s) 6). Other: translation of DE 29702278 and JP11270212.

### **DETAILED ACTION**

1. This Office Action is in response to applicant's amendment filed on June 22, 2005.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, having the second latch component with the track component and the first latch component with the follower instead of vice versa, as claimed in claims 1 and 12, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Although the applicant amend the claims by saying that the track is disposed in the pocket and the follower is disposed in the drawer, the current claim language presented in claims 1 and 12 still recites that the track component is fixed to one of the pocket or the drawer and that the follower is disposed to one of the pocket or the drawer. The applicant is advised to either amend the claim language or to present a drawing with the different configuration.

#### ***Claim Objections***

3. **Claims 1 and 12 are objected** to because of the following informalities:
  - Claim 1 Line 16, change "said track component being substantially fixed relative to the one of said pocket and said drawer which it is on" to -said track component being substantially fixed relative to the pocket-.
  - Claim 1 Line 18, change "said follower being translatable transverse to said axial direction with respect to the one of the said pocket and said drawer which

is on" to -said follower being translatable transverse to said axial direction with respect to the drawer-.

- Claim 12 Line 18, change "said track component being substantially fixed relative to the one of said pocket and said drawer which it is on" to -said track component being substantially fixed relative to the pocket-.
- Claim 12 Line 20, change "said follower being translatable transverse to said axial direction with respect to the one of the said pocket and said drawer which is on" to -said follower being translatable transverse to said axial direction with respect to the drawer-.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

- The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

5. **Claim 13 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation "said follower being disposed on said drawer". It is unclear what the applicant is trying to claim as his invention since this limitation is already claimed and cited in claim 12, which claim 13 is depending. Therefore, claim 13 will not be considered.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1,3,4,6-9,12, and 18-20 are rejected** under 35 U.S.C. 103(a) as being unpatentable over DE 29702278 to Chang et al (Chang) in view of EP 982454 to Pryce.

Regarding claims 1 and 12, Chang discloses a container (3) comprising a pocket (desk openings) and a drawer (31) slidably relative to the pocket in an axial direction between closed position within the pocket and an open position at least partly out of the pocket.

A latch mechanism (Figure 2) has a first latch component (1) on the pocket and a second latch component (2) on the drawer.

One of the latch components has a track component disposed on the pocket and that includes a nest (at 1131), an entrance track (112) leading to the nest, an exit track (114) from the nest, and a redirector (at 113) associate with the nest and the tracks.

The other of the latch components has a follower (22) disposed in the drawer and moveable along the tracks and moveable into and out of the nest upon transition from the entrance track to the exit track. The track component is substantially fixed relative to the pocket.

However, Chang fails to disclose that the follower is translatable traverse to the direction with respect to the drawer. Chang discloses that the follower moves in an arc.

Pryce teaches that it is well known in the art to have a follower (2) that is translated in a direction transverse to the axial direction to help and guide the follower when it is connected to a track component (10).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a slot wherein a follower is slidably disposed, as taught by Pryce, into a device as described by Chang, in order to help and guide the follower when it is connected to a track component.

As to claim 3, Chang illustrates that the follower (22) is disposed on the drawer (Figure 3).

As to claims 4 and 7, Chang discloses that the drawer has an inner end wherein the follower is disposed.

As to claim 6, Chang illustrates that the track component is substantially fixed in position relative to the pocket (Figure 3).

As to claim 8, Chang discloses that the pocket has a spring (124) engaged by the drawer (by means of 127) for urging the drawer outwardly from the pocket.

As to claim 9, Chang illustrates that the track component includes a guide (Figure 4) leading into the entrance track.

As to claim 18, Chang illustrates that the redirector (at 113) includes a surface for guiding the follower into the notch from the entrance track and a second surface for guiding the follower into the exit track from the notch (Figures 4-7).

As to claims 19 and 20, Chang illustrates a method for closing, latching, unlatching, and opening a container (Figures 4-7).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 10,11, and 14-17 are rejected** under 35 U.S.C. 103(a) as being unpatentable over DE 29702278 to Chang et al (Chang) in view of EP 982454 to Pryce as applied to claim 1 above, and further in view of JP 11270212 to Sasaki.

Chang, as modified by Pryce, fails to disclose that the pocket has a top with an inner surface wherein the track component is disposed. Chang illustrates that the pocket has a top with an inner surface, however the track component is disposed on an end wall of the pocket, not at the inner surface of the top part.

Sasaki teaches that it is well known in the art to have a track component disposed on an inner surface of the top part of the pocket (Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the track component disposed on the inner surface of the top part of the drawer, instead of being disposed at an end wall of the pocket, as

taught by Sasaki, into a device as described by Chang, because the location where the track component is located does not change the mechanism of the lock.

As to claims 11 and 14, Pryce teaches that it is well known in the art to have a slot (3) wherein a follower (2) is slidably disposed so as to help and guide the follower when it is connected to a track component (10).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a slot wherein a follower is slidably disposed, as taught by Pryce, into a device as described by Chang, in order to help and guide the follower when it is connected to a track component.

As to claim 15, Chang discloses that the pocket has a spring (124) engaged by the drawer (by means of 127) for urging the drawer outwardly from the pocket.

As to claim 16, Chang illustrates that the track component includes a guide (Figure 4) leading into the entrance track.

As to claim 17, Chang, as modified by Pryce, fails to disclose that the pocket has a top with an inner surface wherein the track component is disposed. Chang illustrates that the pocket has a top with an inner surface, however the track component is disposed on an end wall of the pocket, not at the inner surface of the top part.

Sasaki teaches that it is well known in the art to have a track component disposed on an inner surface of the top part of the pocket (Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the track component disposed on the inner surface of

the top part of the drawer, instead of being disposed at an end wall of the pocket, as taught by Sasaki, into a device as described by Chang, as modified by Pryce, because the location where the track component is located does not change the mechanism of the lock.

***Response to Arguments***

8. Applicant's arguments filed on June 22, 2005 have been fully considered but they are not persuasive.

Regarding applicant's arguments with respect to the drawings objection in view that it would be obvious to one having ordinary skill in the art to reverse the position of the track and the follower (Page 7 Line 11), the argument is not persuasive. The drawings must show every feature of the invention specified in the claims. The applicant is advised to either amend the claim language, as suggested in the claim objection above, or to present a drawing with the different configuration.

As to applicant's arguments to request a translation of the different foreign references used in the rejection because the examiner cannot solely rely on the figures to make a rejection (Page 8 Line 11), a copy of the translation for DE 29702278 and JP 11270212 is attached with this Office Action.

However, with respect to the argument that the examiner cannot solely rely on the figures to make a rejection, this argument is not persuasive. According to the MPEP § 2125, drawings and pictures can anticipate claims if they clearly show the structure which is claimed. The drawings must be evaluated for what they reasonably

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disclose and suggest to one of ordinary skill in the art. Therefore, the rejection is maintained.

As to applicant's arguments that Chang fails to disclose that the follower is translatable transverse to the axial direction (Page 8 Line 25, the new rejection in view of Chang, as modified by Pryce, discloses the invention as claimed.

**Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lugo whose telephone number 571-272-7058. The examiner can normally be reached on 9-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7049.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-5771.

C.L.

Carlos Lugo  
AU 3676

  
BRIAN E. GLESSNER  
PRIMARY EXAMINER

August 31, 2005